

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**

**ROSE HENLEY; ORLANDO VELEZ; and  
JACK DUNN,**

Plaintiffs,

v.

**U.S. BANCORP**, a Minnesota Corporation  
doing business as U.S. National Association;  
**NATHAN FREDERICK JONES SMITH;**  
and **MALCOM & CISNEROS, ALC**, a  
California Corporation,

Defendants.

Case No. 3:19-cv-00985-AC

**OPINION AND ORDER**

**IMMERGUT, District Judge.**

Plaintiffs Rose Henley, Orlando Velez, and Jack Dunn, proceeding *pro se*, brought this action against Defendants U.S. Bank National Association (“U.S. Bank”), Nathan F. Smith, and Malcom & Cisneros, ALC (“M&C”), alleging claims for abuse of process, trespass, conversion, breach of the implied covenant of good faith and fair dealing, and intentional infliction of emotional distress. ECF 14. Plaintiffs filed this complaint on May 24, 2019 in Clackamas County State Court, and Defendants removed to this Court on the basis of diversity jurisdiction. ECF 1.

Presently pending before this Court are Plaintiff's Motion to Remand, ECF 15, Defendant U.S. Bank's Motion to Dismiss, ECF 10, and Defendants M&C and Smith's Motion to Dismiss, ECF 7. Magistrate Judge John V. Acosta issued his Findings and Recommendation ("F&R") on January 17, 2019, recommending that Plaintiff's motion be denied and Defendants' motions be granted. ECF 25 at 2. No objections have been filed.

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#). If a party files objections to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, *de novo* or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Indeed, the Advisory Committee Notes to [Fed. R. Civ. P. 72\(b\)](#) recommend that "[w]hen no timely objection is filed," the Court review the magistrate judge's recommendations for "clear error on the face of the record." Nevertheless, the Act "does not preclude further review by the district judge, *sua sponte*" whether *de novo* or under another standard. *Thomas*, 474 U.S. at 154.

Because no objections have been filed, this Court reviews Magistrate Judge Acosta's F&R for clear error on the face of the record. Finding no apparent error, this Court adopts Magistrate Judge Acosta's F&R in its entirety. ECF 25. Plaintiffs' Motion to Remand is DENIED. The Motions to Dismiss filed by Defendant U.S. Bank and Defendants M&C and Smith's Motion are GRANTED. Plaintiff's Second Amended Complaint is dismissed with prejudice. ECF 14.

**IT IS SO ORDERED.**

DATED this 2nd day of March, 2020.

/s/ Karin J. Immergut  
Karin J. Immergut  
United States District Judge